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Written statement* submitted by the Aliran Kesedaran Negara National Consciousness Movement, non-governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[12 February 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Crackdown on Human Rights Defenders in Malaysia*

Crackdown on civil society movements calling for human rights reforms

On 8 January 2014, the Secretary General of the Home Ministry declared the Coalition of Malaysian NGOs in the UPR Process (Comango) an "unlawful organisation". The Secretary General claimed Comango was promoting "sexual rights contrary to Islam" and that only 15 of its 54 group members were registered under the Societies Act. In a reversal of their position, the section of the statement declaring the group illegal was later omitted from the statement posted on the Home Ministry's website. But no public statement was made by the Home Ministry regarding the omission.[1] On 10 November 2014, Comango publicly condemned a death threat that was made in a blog post against the Bar Council Human Rights Committee co-chair and human rights defender, Andrew Khoo, for his involvement in the UPR process.[2]

On 10 July 2014, a moderate movement named Negara-Ku, aimed at encouraging racial and religious harmony, was launched by former Malaysian Bar Council president Ambiga Sreenevasan and national poet laureate Datuk A. Samad Said. It has since received the endorsement of over 80 civil society groups.[3] On 26 July 2014, the Home Minister Ahmad Zahid Hamidi declared the group illegal, as it was not registered with the Registrar of Societies (ROS). He stated that the group would be unable to register, as its name was inappropriate due to its perceived similarity to Malaysia's national anthem.[4] As the steering committee of Negara-Ku is composed of only six individuals, it fails to reach the threshold for regulation by the Societies Act of 1966. Despite this, all six members of the Steering Committee of Negara-Ku were called in by the ROS under Section 66(1) of the Societies Act. This is harassment and intimidation with the intent of limiting the right to association of a civil society movement led by human rights defenders advocating unity, human rights and political moderation.

On 15 September 2014, a total of 133 local civil society organisations came together to launch a movement called Gerakan Hapus Akta Hasutan (GHAH)[5] to demand the abolition of the Sedition Act.[6] The unrelenting use of the Sedition Act in 2014 led to an unprecedented march by lawyers on 16 October 2014, to protest against the government's repression and to call for the repeal of the Act. The walk, entitled "Walk for Peace and Freedom" was attended by a crowd of over 2,000 lawyers and members of the public.[7] The movement has been met by resistance from politically conservative groups, who have defended the Sedition Act, arguing that with the Internal Security Act (ISA) repealed, the Sedition Act is needed to prevent "untoward incidents".[8] On 12 October 2014, a peaceful anti-Sedition Act rally organised by GHAH Penang was disrupted by a group of men defending the Act. The group, numbering about 30 people, used abusive language on anti-Sedition Act protesters and aggressively forced them to disperse. The police, who were present, allowed the harassment and violence against GHAH to carry on.

Alarming increase in the use of the Sedition Act to crack down on human rights defenders

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1 Malaysiakini – So is COMANGO illegal or not?, 11 February 2014 - http://www.malaysiakini.com/news/254020
2 COMANGO condemns death threat, stands with Andrew Khoo, 10 November 2014 - http://empowermalaysia.org/isi/uploads/2014/11/10112014-COMANGO-Statement-Andrew-Khoo-dwibahasa.pdf
3 The Rakyat Times – Another two Negara-Ku committee members probed by ROS, 28 September 2014 - http://www.rakyattimes.com/~wolf/index.php/news/1315-another-two-negara-ku-committee-members-probed-by-ros
4 The Malay Mail Online – Negara-Ku an illegal society, Home Ministry says, 26 July 2014 - http://www.themalaymailonline.com/malaysia/article/negara-ku-an-illegal-society-home-ministry-says
5 Meaning to Get Rid of Sedition Act
6 Free Malaysia Today – GHAH goes official with three demands, 15 September 2014 - http://www.freemalaysiatoday.com/category/nation/2014/09/15/ghah-goes-official-with-three-demands/
7 The Malay Mail Online – In rare march, lawyers press Putrajaya to show door on Sedition Act, 16th October 2014 - http://www.themalaymailonline.com/malaysia/article/in-rare-march-lawyers-press-putrajaya-to-show-door-to-sedition-act
8 Yahoo News – Sedition Act more effective than ISA, 5 September 2014 – https://my.news.yahoo.com/blogs/bullbashing/sedition-act-more-effective-than-isa-014707161.html

On 27 September 2014, Prime Minister Najib Razak not only reneged on his pledge to abolish the draconian Sedition Act, he announced that he would "fortify" the Act to protect Islam and other religions as well as to deal with calls for secession in the East Malaysian states of Sabah and Sarawak. The announcement came as a shock as it went against the Prime Minister's electoral pledges in 2012[9] and 2013[10] to repeal the colonial-era law. In 2014 alone, 44 individuals including human rights defenders, human rights lawyers, social activists, elected representatives and students were charged, convicted or placed under investigation for sedition.[11]

The stark increase in the use of the Sedition Act from 2012 to 2015 is alarming and has ignited strong objection from civil society organisations, the Malaysian Bar Council, the National Human Rights Commission (Suhakam) and the public. International institutions including the United Nations[12], the US Embassy[13], Amnesty International, the International Federation for Human Rights (FIDH) and Human Rights Watch have issued public statements condemning the government's blitz to curb freedom of expression.

On 8 September 2014, social activist and part-time student Ali Abdul Jalil, was charged under Section 4(1) of the Sedition Act for a comment he posted on Facebook on 21 January 2014, in which he criticised the Malaysian monarchy, referencing the Sultanate of Johor. He was released on RM5,000 bail but was then immediately re-arrested and taken to the Shah Alam Sessions Court where he was charged with a further two counts under Section 4(1)(c) of the Sedition Act for two postings that he made on Facebook on 18 August 2014, in which he was again openly critical of the monarchy.

On this occasion, Ali Abdul Jalil decided not to post bail because he was told that he would be re-arrested and sent to Johor. Out of fear, he chose to remain in Sungai Buloh prison. Ali was denied access to family members for the first 12 days of detention and during that time, a prison officer allegedly punched his stomach, slapped his face and hit his leg using a baton and a rubber pipe. On 22 September 2014, Ali was re-arrested and brought to Johor Bahru police centre for his fourth sedition investigation. Ali was remanded for another five days and released without charge on 27 September 2014. Appallingly, Ali was again re-arrested for his fifth sedition investigation, remanded for two days and once again released on 29 September 2014 without any charge. On 25 October 2014, Ali fled Malaysia and sought political asylum in Sweden with the assistance of Amnesty International Sweden.

On 19 September 2014, Adam Adli, a law student and activist, was found guilty by the Sessions Court and sentenced to a year's imprisonment. He was charged on 23 May 2013 over remarks he made at a public forum on 13 May 2013, where he urged the public to take to the streets to protest against electoral fraud. Adam is on bail of RM5,000 with a stay of his jail term pending appeal. More recently, on 9 January 2015, activist Hishamuddin Rais was found guilty under Section (4)(1)(b) of the Sedition Act for making remarks at the same forum on 13 May 2013. Hishamuddin Rais had also called upon the people to take to the streets to protest the freshly elected federal government.[14] He was spared imprisonment but was also fined RM5,000.[15] On 12 January 2015, human rights lawyer and founder of "Lawyers for Liberty" Eric Paulsen was arrested by 20 policemen and interrogated under the Sedition Act for a comment he made on Twitter.[16]

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9 The Malaysian Insider – Najib: Sedition Act to be repealed, 11 July 2012 - http://www.themalaysianinsider.com/malaysia/article/najib-sedition-act-to-be-repealed

10 British Broadcasting Corporation (BBC) News – Malaysia PM Najib Razak makes sedition pledge, 2 July 2013 - http://www.bbc.com/news/world-asia-23145379

11 Under the Sedition Act, those who commit an offence can be fined up to 5,000 Ringgit and/or imprisoned for up to 3 years, whereas a second offence carries a sentence of up to 5 years imprisonment.

12 United Nations: Office of the High Commissioner for Human Rights – Malaysia Sedition Act threatens freedom of expression by criminalising dissent, 8 October 2014 - http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15144&

13 The Malaysian Insider – US concerned with Putrajaya's use of Sedition Act, says embassy, 17 October 2014 - http://www.themalaysianinsider.com/malaysia/article/us-concerned-with-putrajayas-use-of-sedition-act-says-embassy

14 The Malaysian Insider – Activist Adam Adli found guilty of sedition, jailed a year, 19 September 2014 - http://www.themalaysianinsider.com/malaysia/article/activist-adam-adli-found-guilty-of-sedition

15 The Malaysian Insider – Activist Hishamuddin Rais found guilty of sedition, 9 January 2015 - http://www.themalaysianinsider.com/malaysia/article/activist-hishamuddin-rais-found-guilty-of-sedition

16 The Malaysian Insider – Human rights lawyer Eric Paulsen arrested in sedition probe, 12 January 2015 - http://www.themalaysianinsider.com/malaysia/article/human-rights-lawyer-eric-paulsen-arrested-in-brickfields

Human rights defenders and the environment

Prior to the one year anniversary of the two blockades set up by indigenous communities in Baram, Sarawak to stop the construction of the Baram dam, a team of Forestry Department officers and personnel backed by over 30 armed police from the General Operation Force (GOF), used force to dismantle the Long Kesseh blockade on 21 October 2014. The heavy presence of armed police officers with machine guns was clearly an act of intimidation against the indigenous people who objected to the proposed Baram hydroelectric dam.

On 27 October 2014, the police and Forestry Department officers set up their own camp in the area to stop the villagers from entering Long Kesseh. Ever since then, there has been a constant tussle of dismantling and removal of blockades between the authorities and the Baram communities.

On 21 June 2014, police obtained a seven-day court injunction to prevent a blockade called by Himpunan Hijau which was to begin on 22 June 2014 at the main entrance to Lynas Corporation's rare earth refinery in Gebeng, Pahang. The injunction prohibited anyone from getting within 20 metres of the plant. Despite police intimidation, some 1000 individuals arrived at the refinery on 22 June 2014. While the assembly was carried out peacefully, the police still instructed the protestors to disperse within 10 minutes. The police then allegedly resorted to forcefully pushing and beating the protesters when they refused to leave the area. A total of 16 protestors were apprehended, including Himpunan Hijau chairperson Wong Tack, an activist from New Zealand, Natalie Lowrey, and Teluk Intan Democratic Action Party chief Hew Kuan Yau.

On 9 July 2014, 15 of the protesters were charged at the Session Court under the Penal Code for unlawful protest and use of force during the protest. They were then released on bail but the court ordered the accused to report to the police once every month and imposed a gag order on them, banning them from discussing their case. On 3 September 2014, Natalie Lowrey was denied entry into Malaysia.

Conclusions

In light of the above, Aliran calls upon the United Nations:

- to immediately condemn the unacceptable human rights violations presently taking place in Malaysia.

- to call on the Malaysian government to:

  - immediately stop all intimidation and drop all charges against human rights defenders;
  - repeal draconian laws such as the Sedition Act 1948 and the Peaceful Assembly Act 2012, that negatively affect human rights defenders in the country;
  - allow the UN Special Rapporteur on Human Rights Defenders to visit Malaysia to carry out an independent inquiry and that the Malaysian government fully facilitate their investigation

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*Suara Rakyat Malaysia (Suaram), an NGO without consultative status, also share the views expressed in this statement.